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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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7590

02/11/2004

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Washington, DC 20005-3315

EXAMINER

WORRELL JR, LARRY D

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 02/11/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/085,066

Applicant(s)

RELATS ET AL.

Examiner

Danny Worrell

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-33 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 12-14, 18-25 and 29-33 is/are rejected.
- 7) ☒ Claim(s) 15-17, 26-28 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12, 13, 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Matsuda (4022034).

Matsuda (4022034) teaches the method for providing a protecting tube as claimed including knitting a plurality of yarns (12a, 12b) to form the protecting tube using a Raschel-type flat warp-knitting machine. (column 2, line 14) The protecting tubes being one of an open and closed configuration (see figures 1 & 2) to contain at least one of a cable or conduit (11). Note the specific tricot, chain stitch as seen in figure 2. Concerning the inclusion of the term "flat", Raschel knitting machines are in fact "flat" warp knitting machines since the needles are not set in a circular pattern but rather a linear configuration. As seen in the stitching diagram of figure 2, the needles are straight and therefor are "flat" not circular.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-14, 18-25 and 29-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ribarev et al. (4781039) in view of Matsuda (4022034).

Ribarev et al. (4781039) teaches the method for providing a protecting tube as claimed including knitting a plurality of yarns to form the protecting tube (D) using a warp-knitting machine. The protecting being one of an open and closed configuration (see figure 20) to contain at least one of a cable or conduit (S). note the second knitted tube(C) and resin(R). While Ribarev et al. (4781039) sets forth that knitting takes place on a warp knitting machine, it is not expressly set forth as being a Raschel warp knitting machine. Matsuda (4022034) shows warp knit tubes formed on Raschel type warp knitting machine. It would have been obvious at the time the invention was made to one of ordinary skill in the art to which the invention pertains to knit the protective warp knit tube of Ribarev et al. (4781039) on a Raschel type warp knitting machine as shown by Matsuda (4022034) since tubes are typically knit on Raschel machines as shown by Matsuda (4022034) and in order to have the design features and knitting speeds typically associated with Raschel knitting machines. Concerning the specific

Allowable Subject Matter

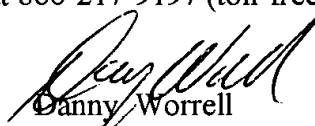
Claims 15-17, 26-28 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danny Worrell whose telephone number is 703/308-0889. The examiner can normally be reached on Tuesday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on 703/305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Danny Worrell
Primary Examiner
Art Unit 3765

LDW